creditors unless recorded, an unrecorded conditional sale contract was invalid also as against the trustee in bankruptcy or purchasers claiming through him. *In re Williamsburg Knitting Mill* (1911), 190 Fed. 871.

For a discussion of the principles and authorities involved in this decision and of the approved construction of the amendment referred to, see 7 MICH. L. REV., 474; 10 MICH. L. REV., 131.

BANKS AND BANKING—ENTRY OF DEPOSIT FOR COLLECTION—INSOLVENCY OF BANK'S AGENT.—Plaintiff deposited to his account in defendant bank a check drawn upon a bank in another State, indorsing it to the order of defendant bank; it was entered on a deposit slip on which was the printed statement, "All items credited subject to final payment," and was sent by the defendant bank to its correspondent bank for collection. That bank collected the check, but did not pay the money to defendant bank, and became insolvent. Defendant bank thereupon charged the amount back to the account of plaintiff, who brought this action to recover the amount of the check. There was no evidence as to any want of diligence or due care in the selection of the correspondent bank. *Held*, that plaintiff was not entitled to recover. *Falls City Woolen Mills* v. *Louisville Nat. Banking Co.* (Ky. 1911) 140 S. W. 66.

It is clear that if the defendant bank had been negligent in selecting the correspondent bank, it would have been liable, 1 DANIEL, NEG. INST., Ed. 5, 336. But the question whether the bank is liable under the facts of the principal case is one on which the decisions of the courts are utterly irreconcilable. The decisions that are in accord with the case under consideration are based upon the reason that in such case the customer, knowing that the check cannot be collected by the ordinary officers of the bank, but that this service must be performed by a sub-agent at the place where the check is payable, impliedly authorizes the selection of such sub-agent, and thereby assumes the risk of failure of duty on the part of the latter; and that the benefit which may accrue to the bank is not a sufficient consideration from which to imply an undertaking on the part of the bank to assume that risk itself. *Dorchester & Milton B.* v. *New England Bk.*, 1 Cush. 177; *Jackson* v. *Bk.*, 6 Har. & J. 146; *Fabens* v. *Mercantile Bk.*, 23 Pick. 330; *Lawrence* v. *Stonington Bank*, 6 Conn. 521; *Hyde et al.* v. *Planters, Bk.* 17 La. 560; *Baldwin* v. *Bank of La.*, 1 La. Ann. 13; *Bowling* v. *Arthur*, 34 Miss. 41; *Citizens' Bank* v. *Howell*, 8 Md. 530; *Stacy* v. *Bank*, 12 Wis. 702; *Aetna Ins. Co.* v. *Bank*, 25 Ill. 221; *East-Haddam Bank* v. *Scovil*, 12 Conn. 303; *Daly* v. *Bank*, 56 Mo. 94; *Guelich* v. *Bank*, 56 Iowa 434; *Third Nat. Bank* v. *Vicksburg Bank*, 61 Miss. 112; *Firts Nat. Bank* v. *Sprague*, 34 Neb. 318, 51 N. W. 846; *Bank of Big Cabin* v. *English* (Okl.), 11 Pac. 386; *Winchester Milling Co.* v. *Bank of Winchester*, 120 Tenn. 225, 111 S. W. 248. In *Winchester Milling Co.* v. *Bank, supra*, it is said that each successive bank handling an item for collection is agent of the owner and liable to him for the discharge of duties incumbent upon collecting agents, and the several banks in the chain of transmission are held responsible only for the selection of proper agents and for their own diligence and propriety of action in respect to the collection. The main reason of the doctrine holding the bank first receiving the paper liable

for the conduct of any and all of the subsequent agents is that in the law of agency the first agent is liable for the acts of all the sub-agents employed by him. MORSE, BANKS AND BANKING, Ed. 2, p. 402. This doctrine is upheld in the following cases. *Exchange Nat. Bank* v. *Third Nat. Bank*, 112 U. S. 276; *Mackersy* v. *Ramsays*, 9 Cl. & Fin. 818, 3 Eng. Rul. Cas. 762; *Baile* v. *Augusta Savings Bank*, 95 Ga. 277; *Allen* v. *Merchants' Bank*, 22 Wend. 215, 34 Am. Dec. 289; *Titus* v. *Bank*, 35 N. J. L. 588; *Tyson* v. *Bank*, 6 Blackf. 225; *American Exp. Co.* v. *Haire*, 21 Ind. 4, 83 Am. Dec. 334; *Reeves* v. *Bank*, 8 Ohio St. 466; *Simpson* v. *Waldby*, 63 Mich. 439; *Power* v. *Bank*, 6 Mont. 251; *Thompson* v. *Bank of South Carolina*, 3 Hill's S. C. L., 77; *Schumacher* v. *Trent*, 18 Tex. Civ. App. 17, 44 S. W. 460; *First Nat. Bank* v. *Quinby*, (Tex. Civ. App.) 131 S. W. 429. In *Hyde* v. *First Nat. Bank*, Fed. Cas. No. 6, 970, 7 Biss. 156, and *First Nat. Bank* v. *Quinby, supra*, it is said that the bank receiving a note for collection does not thereby become the agent of the holder, but is an independent contractor, and the subsequent agents are treated as its own and not the sub-agents of the owner of the paper. The supporters of this rule contend that by it alone can the depositor who intrusts his business to a bank be secure against carelessness or dishonesty on the part of collecting agencies employed by banks to carry out their contract.

BILLS AND NOTES—STIPULATIONS FOR ATTORNEY'S FEES—VALIDITY.—The note involved in this case contained the following provision, "If this note is placed in the hands of an attorney at law for collection, we agree to pay 10 per cent. attorney's fees." The lower court allowed the holder to recover 10 per cent. attorney's fees only upon the balance due on the note, and not 10 per cent. of the whole amount. *Held*, that the court is not bound by a provision that any particular amount shall be allowed for attorney's fees, but the stipulation will be enforced only to the extent of making a reasonable allowance, and that allowance of such fees being largely a matter of discretion of the trial court, the exercise of such discretion will not be interfered with on appeal unless the allowance is materially wrong. *Holston Nat. Bank* v. *Wood* (Tenn. 1911), 140 S. W. 31.

The decided cases on the question whether a stipulation in a note for attorney's fees is valid may be divided into four classes. First, the stipulation is valid and enforceable and does not affect the negotiability of the instrument. *Dorsey* v. *Wolff*, 142 Ill. 589. Second, the stipulation is valid and enforceable, but it destroys the negotiability of the instrument. *Jones* v. *Radatz*, 27 Minn. 240; *Johnston Harvester Co.* v. *Clark*, 30 Minn. 308; *First Nat. Bank* v. *Larson*, 60 Wis. 206. Third, the stipulation is void, and as it may therefore be disregarded, it does not affect the negotiability of the instrument. *Gilmore* v. *Hirst*, 56 Kan. 626; *Chandler* v. *Kennedy*, 8 S. D. 56. Fourth, the stipulation is void, but nevertheless it destroys the negotiability of the instrument. *Bullock* v. *Taylor*, 39 Mich. 137; *Tinsley* v. *Hoskins*, 111 N. C. 340. See BUNKER, NEG. INST., p. 37. The Negotiable Instruments Law, now adopted by many of the States in this country, makes such stipulation valid and enforceable. When the stipulation in a note provides for a reasonable fee, it is held to be the value of the services rendered in its collection, *Rinker* v.